

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 03-47575

In re:

Patrick William Sullivan,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein ("Trustee") moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 9:30 a.m. on February 18, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.
3. Any response to this motion must be filed and delivered not later than February 11, 2004, which is seven days before the time set for the hearing or filed and served by mail not later than February 6, 2004, which is ten days before the time set for the hearing.

UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on October 28, 2003. The first meeting of creditors was originally scheduled for December 2, 2003. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.
6. Attached hereto as Exhibit A is a true and correct copy of Debtors' Schedule C. Movant objects to the Debtor's exemption claimed in that schedule as follows, for the following reasons:
 - a. Objection is made to the Debtor's claimed IRA exemption as the Trustee believes that the IRA is not subject to exemption pursuant to this court's ruling in the case of *Thomas Paul Clark*, BKY No. 03-40923. The Trustee has requested a copy of the plan contract for the IRA policy but still has not received that contract from the Debtor.

WHEREFORE, the Trustee requests that the Court enter an order denying the Debtor's claimed exemption of "The Vanguard Group, IRA Acct# 006853215 - \$450.64."

FULLER, SEAVER & RAMETTE, P.A.

Dated: December _29____, 2003

By:___/e/ Randall L. Seaver_____
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on December 29, 2003

/s/ Randall L. Seaver _____
Randall L. Seaver

In re Patrick William Sullivan,
Debtor

Case No. _____

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☐ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
Real Property			
Wileys Addition, Lake Lot 66, All of Record and title in Hennepin County Records Office, Minnesota. [140 x 55 feet , Not actually on lake, nor with any riparian rights. Value based on county assessment.]	Minn. Stat. §§ 510.01, 510.02	61,814.85	100,000.00
Household Goods and Furnishings			
Minimal assortment of household goods and furnishings,	Minn. Stat. § 550.37(4)(b)	1,000.00	1,000.00
Wearing Apparel			
Minimal assortment of casual and work clothes.	Minn. Stat. § 550.37(4)(a)	500.00	500.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
The Vanguard Group, IRA Acct # 006853215 PO Box 7800 Philadelphia, PA 191901-9892	Minn. Stat. § 550.37(24)	450.64	450.64
Automobiles, Trucks, Trailers, and Other Vehicles			
1996 Chevrolet 4x4 Z-71 in extremely poor condition. [135,000 miles]	Minn. Stat. § 550.37(12a)	3,500.00	3,500.00

**UNITED STATES BANKRUPTCY COURT
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Patrick William Sullivan,

Debtor.

ORDER

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained and the Debtor's claimed exemption of "The Vanguard Group, IRA Acct# 006853215 - \$450.64." is denied.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 03-47575

In re:

Chapter 7

Patrick William Sullivan
Debtor,

UNSWORN CERTIFICATE OF SERVICE

I, **Roger B. Seaver**, declare under penalty of perjury that on **December 29, 2003** I mailed a copy of the **Notice of Hearing and Motion Objecting to Claimed Exemptions along with the proposed order for same** along with all exhibits thereto first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Patrick William Sullivan
2318 Olive Avenue
Orono, MN 55391

Paul Elliot Ross
Ross & Norton, PLLP
287 Marschall Road, Suite 203-A
Shakopee, MN 55379
(952) 496-1633 Fax: (952) 496-1728

FULLER, SEAVER & RAMETTE, P.A.

Dated: December 29, 2003

By: /e/ Roger Seaver

Roger B. Seaver 251227
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888